

EXHIBIT A

Expert Report of Jeffrey H. Kinrich -- Wayne Berry v. Hawaiian Express Service, Inc.

I. Introduction

1. This report contains my opinions in the matter of *Wayne Berry v. Hawaiian Express Service, Inc.* pending in the United States District Court for the District of Hawaii, Case No. 03-00385 SOM-LEK.

II. Assignment

2. I have been engaged by the Fleming Post-Confirmation Trust ("Fleming")¹ to opine on the reasonableness of the damage analysis conducted by Thomas Ueno in his Expert Report dated March 21, 2005. Specifically, I have been asked to determine whether the figures set forth in Ueno's report accurately measure the damages suffered by Wayne Berry ("Berry") stemming from Fleming's alleged copyright infringement of Berry's Freight Control System software ("FCS") and other allegations raised in Berry's Second Amended Verified Complaint.
3. To the extent that I find that Ueno's analysis does not accurately characterize the damages suffered by Berry, Fleming has also asked me to opine on Berry's damages.
4. Although I understand the matter to be contested, my analysis assumes that Fleming is found liable under the claims in this matter.

III. Qualifications

5. I am a Managing Principal at the economic, financial, and strategy consulting firm Analysis Group, Inc. Analysis Group employs approximately 300 professionals in the areas of economic, finance, and strategy. I graduated summa cum laude from Pomona College in 1976 with a Bachelor of Arts degree in Mathematics. I received a Master of Science degree in Statistics from Stanford University in 1977, and a Master of Business Administration in Finance and Quantitative Methods from the University of Maryland in 1980, where I graduated first in my class. I am a Certified Public Accountant and have more than 20 years of experience analyzing damages in commercial disputes, with a

¹ In this report, I use the term "Fleming" to refer to both the Post-Confirmation Trust and Fleming Companies, Inc.

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particular focus on intellectual property including copyright infringement. Analysis Group is compensated at the rate of \$485 per hour for my time. Hourly rates for other staff range from \$150 to \$360 per hour. A resume detailing my experience, testimony within the past four years, and publications within the past ten years is attached to this report as **Exhibit 1**.

IV. Documents Relied Upon

6. This report incorporates information from documents provided to me in this case including financial data from Fleming's Hawaii division, agreements between Fleming and Wayne Berry, agreements between Y. Hata and Wayne Berry, the Expert Report of Thomas Ueno and various other documents. A complete list of the documents and data sources that I relied upon is attached as **Exhibit 2**. If additional documents or information become available, I reserve the right to update my analysis.

V. Background

7. Fleming was a food wholesaler with a division in Hawaii ("Fleming Hawaii"). Fleming arranged for products to be brought into Hawaii from the mainland and then shipped to its customers' stores throughout Hawaii.
8. In 1999, Fleming purchased assets from Atlantic Pacific International, Inc. ("API"). Prior to the purchase, API had helped Fleming in transporting product from the mainland to Hawaii. API was charged with determining if it could coordinate transport for a price lower than that being offered by the vendor. If API were successful, Fleming and API would share the cost savings. After the purchase, Fleming brought this function in-house. Around the time Fleming purchased API's assets, Fleming received a free license from Wayne Berry to use the FCS.² As I understand it, the FCS was used to keep track of Fleming's shipments from the mainland.

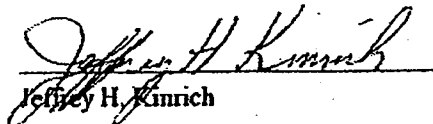
² Memorandum from Ralph Stussi to Wayne Berry, re: License agreement for freight control system, 11/24/99 (A00449 - A00450); Deposition of Wayne Berry, 7/1/2004, pg. 81; End-User License Agreement - License for Freight Control System Software (HF00252 - HF00254)

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X. Disgorgement of Profits

43. Exhibit 5 shows Fleming Hawaii's financial performance between April 1, 2003 and August 23, 2003. During the period from April 1, 2003 to June 8, 2003, Fleming Hawaii had revenue of \$54 million but lost approximately \$861 thousand dollars. During the period from June 9, 2003 to August 23, 2003, Fleming Hawaii lost an additional \$343 thousand while generating revenue of almost \$53.5 million. (This result is not surprising; recall that Fleming was in bankruptcy.)
44. Fleming Hawaii did not achieve profits. However, even if there were profits to disgorge, the profits would have to be apportioned among the contributing factors. Berry would only be entitled to the share of profits that are attributable to Fleming's modification of the FCS. As I discussed above, the FCS is not a profit generating part of Fleming Hawaii or its logistics department. It is a receptacle of data used by the staff. The profits (or cost savings) attributable to logistics are due to the know-how of the staff and not to the FCS. Fleming's only "profit" is the cost it avoided by not paying Berry to modify the system. This amount has already been captured in the estimate of actual damages above. It should not be double counted here.

Dated the 16th day of June 2005, at Los Angeles, CA.


Jeffrey H. Kinrich

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Exhibit 2
Wayne Berry v. Hawaiian Express Service
Documents Relied Upon

Bates Prefix	Beg. Bates	End Bates	Description
N/A	N/A	N/A	N/A Asset Purchase Agreement, 10/9/99
N/A	N/A	N/A	N/A Attachment - Software End User License Agreement between Y.Hata and Wayne Berry, 5/8/03
N/A	N/A	N/A	N/A Attachment to letter from Wayne Berry - Service Agreement between Y.Hata and Wayne Berry, 5/8/03
N/A	N/A	N/A	N/A Attachment to letter from Wayne Berry - Service Agreement's End User License Agreement
N/A	N/A	N/A	N/A Bylaws of Atlantic - Pacific International Services
N/A	N/A	N/A	N/A Bylaws of Fleming Companies
N/A	N/A	N/A	N/A Comparison of Wayne Berry and Descartes Pricing
N/A	N/A	N/A	N/A Container Costs Report - 11/1/95 - 10/31/99
N/A	N/A	N/A	N/A Declaration of Ralph Stussi
N/A	N/A	N/A	N/A Declaration of Timothy Hogan (with Exhibits A-Y), 4/18/05
N/A	N/A	N/A	N/A Declaration of Wayne Berry (with Exhibits A - S), 4/18/05
N/A	174	N/A	179 Declaration of Wayne Berry Exhibits A through G, 11/21/01
N/A	N/A	N/A	N/A Email from Wayne Berry to Brian Marting, re: Agreements (with Draft Service Agreement)
N/A	N/A	N/A	N/A Email from Wayne Berry to Brian Marting, re: Agreements, 5/8/03
HF	252	N/A	254 End-User License Agreement - License for Freight Control System Software, 10/29/99
N/A	N/A	N/A	N/A Excerpt from Deposition of Wayne Berry, pp. 78-85, 7/1/04
N/A	N/A	N/A	N/A Excerpt from Deposition of Wayne Berry, pp.110-115, September 2004
N/A	N/A	N/A	N/A Excerpt of Deposition of Ralph Stussi
N/A	N/A	N/A	N/A Exhibit A to letter from Wayne Berry - Customer List
N/A	N/A	N/A	N/A Exhibit B to letter from Wayne Berry - Certain Companies and/or Individuals
N/A	N/A	N/A	N/A Expert Report of Thomas Ueno, 3/21/05
PCT-B	377	N/A	379 Fleming 13-Period Calendar
HF	122	N/A	123 Fleming Asset Purchase from API - Summary
PCT-B	315	N/A	376 Fleming financial statements, for Period 4
PCT-B	251	N/A	314 Fleming financial statements, for Period 5
PCT-B	187	N/A	250 Fleming financial statements, for Period 6
PCT-B	124	N/A	186 Fleming financial statements, for Period 7
PCT-B	60	N/A	123 Fleming financial statements, for Period 8
PCT-B	1	N/A	59 Fleming financial statements, for Period 9
N/A	N/A	N/A	N/A Freight Analysis and Potential Cost Savings - Prepared by Wayne Berry

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Exhibit 2

Wayne Berry v. Hawaiian Express Service

Documents Relied Upon

Bates Prefix	Beg. Bates	End Bates	Description
N/A	N/A	N/A	N/A Freight Control System Procedures
N/A	N/A	N/A	N/A Handwritten notes - Hawaiian Ocean Transport
A	467	N/A	467 Invoice from Wayne Berry to Atlantic Pacific International
N/A	N/A	N/A	N/A Invoices from Wayne Berry to Y. Hata & Company for software license
N/A	N/A	N/A	N/A Invoices from Wayne Berry to Y-N, Inc for software license
N/A	N/A	N/A	N/A Job Costs Report - 11/1/95 - 10/31/99
N/A	N/A	N/A	N/A Letter from Borja to Stussi, 9/16/99
N/A	N/A	N/A	N/A Letter from Brad Dechter to Damian Capozzola, 6/6/05
N/A	N/A	N/A	N/A Letter from Brian Marting, re: Follow-up Issues on Freight Analysis
N/A	67	N/A	68 Letter from Craig Shikuma to Timothy Hogan, re: Fleming/API Settlement Agreement
J	256	N/A	257 Letter from Dave Badten to Mark D, re: edi transmission to Fleming Hawaii logistics
HF	205	N/A	206 Letter from Jack Borja with Proceeds from Sale of Cudahy Terminal
N/A	64	N/A	66 Letter from Timothy Hogan to Craig Shikuma, re: Fleming/API Settlement Agreement
N/A	N/A	N/A	N/A Letter from Wayne Berry to Brian Marting, re: Agreements (with attachments), 5/8/03
N/A	N/A	N/A	N/A Letter from Wayne Berry to Brian Marting, re: Agreements, 4/14/05
N/A	N/A	N/A	N/A Letter from Wayne Berry to Brian Marting, re: Freight Control System, 6/6/02
N/A	N/A	N/A	N/A Letter from Wayne Berry, re: Freight Control System Implementation
N/A	N/A	N/A	N/A Letter from Wayne Berry, re: Freight/Commodity Control Service Agreement
A	449	N/A	450 Memo from Ralph Stussi to Wayne Berry re: License agreement for freight control system, 11/24/99
N/A	N/A	N/A	N/A Memorandum in Opposition to Plaintiff Wayne Berry's Motion for Summary Judgment
N/A	N/A	N/A	N/A Notes from Wayne Berry meeting
N/A	N/A	N/A	N/A Outline of Procedures
N/A	N/A	N/A	N/A Plaintiff Wayne Berry's Concise Statement of Facts, 4/20/05
N/A	N/A	N/A	N/A Rule 26(a)(2)(B) Expert Report of Martin G. Walker, 5/31/05
HF	224	N/A	228 Sale of Trucking and Cost per Case information
N/A	N/A	N/A	N/A Sales and Allowance Report - 11/1/95 - 10/31/99
N/A	N/A	N/A	N/A Settlement and Release Agreement, 10/7/99
N/A	N/A	N/A	N/A Summary of Voluminous Records Contained In Disclosure A00519
N/A	N/A	N/A	N/A Trial Transcript, 2/26/03
N/A	N/A	N/A	N/A Various emails from Wayne Berry to Brian Marting

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Exhibit 2
Wayne Berry v. Hawaiian Express Service
Documents Relied Upon

Bates Prefix	Beg. Bates	End Bates	Description
A	1	11	Wayne Berry - Damage Model

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Exhibit 5

Wayne Berry v. Hawaiian Express Service
Fleming Hawaii Financial Performance
April 1, 2003 - August 21, 2003

	4/1/2003 - 6/30/2003*	6/30/2003 - 8/21/2003*	Total
Net Operating Sales	54,048,385	53,490,451	107,538,835
Net Sales	54,435,793	53,916,556	108,352,348
Gross Margin All Ops	4,601,427	4,804,780	9,406,206
Cost. Serv. Product Proc.	(329,524)	(351,153)	(680,678)
Warehouse Expense	(1,092,080)	(940,311)	(2,032,391)
Net Transportation	(520,914)	(307,249)	(828,163)
Add Back Trans Rev	(764,641)	(832,952)	(1,597,593)
Building Expense	(1,186,859)	(1,182,379)	(2,369,237)
Gross Margin	707,409	1,190,734	1,898,144
SG&A			
Gen Admin Exp	(214,930)	(134,802)	(421,732)
IT Exp	(30,764)	(25,143)	(55,907)
Selling Exp	(183,746)	(154,108)	(337,854)
Additional Compensation	34,893	16,616	51,509
Retail Service Expense	0	(123)	(123)
Credit Losses	(34,964)	(39,421)	(76,386)
Other Expense	(1,365)	(1,435)	(2,800)
Total SG&A	(504,877)	(338,416)	(843,293)
Operating Earnings ^a	202,533	852,318	1,054,851
Interest Income & PS Dividends	45,233	49,173	94,406
Working Capital Charge	(711,244)	(811,545)	(1,522,809)
Overhead Burden Charge	(398,050)	(433,122)	(831,172)
Earnings Before Taxes	(\$861,478)	(\$343,196)	(\$1,204,674)

Notes:

- a. For accounting purposes, Fleming uses a 13 period calendar (April 1, 2003 is the 10th day of Period 4). The reported values were reduced by 9/28 to only include the portion of period 4 occurring after April 1st.
- b. Fleming's Hawaii division was divested in Period 9. Accordingly, the Period 9 financial statements did not include standard period ending line items. These items were imputed based on prior periods' data (PCT-B 000065).

Sources:

PCT-B 000319, -255, -191, -128, -065, -064, and -005

ANALYSIS GROUP, INC.